Manitoba
Municipal Affairs

Report of the Advisory Committee on Emergency Responses

REPORT OF THE
ADVISORY COMMITTEE
ON
EMERGENCY RESPONSES

Department of Municipal Affairs

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ADVISORY COMMITTEE ON EMERGENCY RESPONSES

Municipal fire departments and ambulances often respond to R.C.M.P. requests to provide the necessary protective services inside, or outside, the legal boundaries of a municipality. If these services are provided within the legal limits of a municipality, or those of the municipality with which there exists a mutual aid agreement, the incurred costs are generally not disputed. In those cases, the emergency response costs are considered to be part of the municipality's annual current protective service costs.

There have, however, been incidents where local fire departments responded to R.C.M.P. requests to provide the necessary services outside the legal boundaries of the municipality, or those with which there existed a mutual aid agreement. In some of those instances, municipalities encountered great difficulties in recovering their expenses.

Since local fire departments are often the only ones in a position to quickly respond to an emergency in a rural area, it is essential that municipal governments do not become hesitant about responding to emergency calls out of fear that they have to absorb the associated costs themselves.

Since these incidents occurred, a number of legislative changes have been made as an interim measure. In addition, the Honourable Andy Anstett, Minister of Municipal Affairs, established an Emergency Response Committee to determine what other legislative changes or measures were necessary to enable

municipal governments to recover incurred expenses related to emergency response calls from outside their respective municipal boundaries.

This Emergency Response Committee consisted of representatives of the Union of Manitoba Municipalities (U.M.M.), Reeve C. Baker and Reeve E. Peltz; the Manitoba Association of Urban Municipalities (M.A.U.M.), Mayor G. Harrington and Reeve P. Rebeck; and the Department of Environment and Workplace Safety and Health; and the Department of Municipal Affairs. Mr. Robert L. Brown, of the Department of Municipal Affairs, was named to chair this Committee.

TERMS OF REFERENCE:

The Committee's terms of reference were to advise the Minister of Municipal Affairs as soon as possible as to what legislative amendments or other measures might still be required to ensure municipal governments that incurred expenses could be recovered if they responded to an emergency call from outside their legal boundaries, or those of a municipality with which they had a mutual aid agreement.

COMMITTEE CONSIDERATIONS:

The Committee's initial deliberations focussed on the specific reasons why certain municipalities encountered difficulties in recovering fire department expenses for services rendered outside the respective municipal boundaries. From these dicussions it became apparent that municipalities, until very recently, were not in a legal position to charge the owner, or operator of real or personal property, for the provided emergency service. The owner or operator could, therefore, refuse to pay the fire department's response costs.

Recent changes in provincial legislation have improved the municipality's legal position. The costs of a fire department attending an emergency, whether that arises from a fire or an accident, can now be charged to the owner or operator of the real or personal property, if such an emergency occurred outside the municipality's boundaries or those of the municipalities with which there exists a mutual aid agreement.

Nevertheless, in line with the mandate, the Committee reviewed and analyzed all relevant provincial legislation to determine under what conditions and under what circumstances municipalities could still encounter problems in recovering incurred emergency response expenses. For this reason the following provincial Acts were examined:

Municipal Act
Manitoba Public Insurance Act
Highway Traffic Act
Dangerous Goods Handling and Transportation Act

A summary of the relevant sections of these Acts is provided in the Appendix to this report.

From the examination of the provincial Acts, it became apparent that under the amended Municipal Act, Section 283(7), a municipality may charge the owner of the real or personal property for the cost of the provided fire service. If the incident requiring the services of a municipal fire department involved dangerous or hazardous goods then the cost of the provided services could become a debt payable by the Provincial Government, if the services were requested by an appointed employee of the Department of Environment and Workplace Safety and Health. Present legislation now provides the municipal governments with the legal means to recover, in most cases, their emergency service costs, if these services were provided outside the municipality's legal boundaries or those of the municipalities with which there exists a mutual aid agreement.

There remains, however, a certain number of possible instances to which no specific reference is made in existing legislation. In those particular instances, a municipality might still encounter problems in recovering its incurred emergency service expenses. Examples of those instances include false alarm calls, unwanted calls, and responses from two or more municipal fire departments to the same call. According to Section 283(7) of The Municipal Act, municipalities could charge those expenses to the owner of the real or personal property - if the incident occurred outside the boundaries of the municipalities - but in reality this might be difficult.

In all likelihood, the costs associated with these particular instances will be relatively small because the cost per call will presumably be small; and the number of unwanted responses per year outside the municipality are expected to be few. Nevertheless, it remains remotely possible that the total annual cost of such calls may still represent a significant percentage of a municipality's annual budget.

To ensure that municipalities could expect, also in those instances, to be reimbursed for their incurred costs, the Committee considered the following alternative solutions:

- formalizing communication channels for requesting fire services outside a municipality's boundaries;
- amending existing legislation to deal with those instances not specifically covered by present legislation;
- implementing a municipal insurance plan to cover the cost of those fire services that are difficult to recover;
- establishing a reserve fund to reimburse municipalities for difficult to recover emergency service costs.

In most cases, the local R.C.M.P. detachment requests a municipal fire department to respond to a rural emergency call. This provides some assurance that the request is legitimate and that a response is necessary. If the local fire chief expects that dangerous goods are involved in the incident, the fire chief can now report the incident to the Department of Environment and Workplace Safety and Health

by phoning 944-4888 to receive instructions regarding the necessary action on behalf of the Department. Only if the fire chief has received such instructions does the cost for the provided service become a debt payable by the Province of Manitoba. In all other instances, where a local fire department responds to an emergency outside its municipal boundaries, the municipality will have to try to recover the cost itself.

The Committee, therefore, concluded that all municipal fire chiefs should be advised to report to the Department of Environment and Workplace Safety and Health as to any incident which they suspect involves dangerous goods and for which their service is requested. This should create few problems since most fire trucks are now equipped with CB's or telephones.

To amend the existing legislation to cover those few instances that are not already specifically dealt with in the various provincial Acts does not appear practical at this time. For instance, it might be rather difficult to legislate which fire department should be entitled to charge the property owner if two or more fire departments responded to the same call and none of the fire departments were required.

The Committee, therefore, does not recommend any legislative amendments to resolve the possible problems in recovering those costs associated with services provided outside municipal boundaries.

A municipal insurance plan also was not found to provide a practical solution for those cases where municipal governments encountered difficulties in recovering the costs for services rendered outside their municipal boundaries. In the first place, underwriting insurance companies are expected to charge municipalities a relatively high premium in light of the uncertainty regarding the number of annual claims and the cost per claim. In the second place, municipal insurance policies generally have a $200 deductable clause, so that municipalities would never recover their full service cost. Particularly since the instances that a municipality would encounter difficulties in recovering fire service costs for services rendered outside municipal boundaries are expected to be infrequent and relatively small, it would not be worthwhile for municipal governments to purchase insurance for this purpose. The Committee, therefore, rejected this possible solution.

A reserve fund managed by municipal and provincial representatives would seem a more attractive solution. Both levels of government could, for instance, make an initial contribution of $5,000 to the fund, which would create a fund of $10,000. Since there are 202 municipalities in the Province of Manitoba, an initial contribution of $25 per municipality would provide the suggested municipal share of $5,000.

The possibility that such a $10,000 fund will be depleted in the first year appears remote since the number of submitted claims per year will likely be small. Also, the total amount per claim will probably be relatively small since such claims will be mainly related to false alarms or unwanted fire department responses. If the fund is allowed to earn interest, the initial contributions may in fact be sufficient to pay most of the annual claims.

A reserve fund of this nature could be administered by a small board, with representation from the Manitoba Association of Urban Municipalities (M.A.U.M.), the Union of Manitoba Municipalities (U.M.M.), and the Province of Manitoba, or by a government department. However, in view of the suggested shared funding of the fund, a small Board, made up of representatives from municipal and provincial governments, would seem to be the most appropriate solution. The Committee envisioned that the duties of the Board will include the evaluation of submitted claim forms and whether some of the fund's un-utilized earned interest should be returned to the municipalities if that earned interest exceeds a certain amount.

The Committee, therefore, recommends that a special reserve fund be established to reimburse municipalities for the cost of fire services which were rendered outside the municipal boundaries and which are difficult to recover otherwise.

The Committee also recommends that the cost of such a fund be shared by the municipalities and the Province of Manitoba, and that such a fund be administered by M.A.U.M., U.M.M., and provincial government representatives.

RECOMMENDATIONS:

In summary, the Emergency Response Committee recommends that:

- all fire chiefs should be advised that if they suspect that dangerous goods are involved in an incident for which fire department services are requested, they report the incident to the Department of Environment and Workplace Safety and Health (944-4888) to receive instructions regarding the necessary action on behalf of the Government of Manitoba.

- existing legislation is basically adequate to ensure that municipal governments can recover their costs if they respond to an emergency call from outside their legal boundaries, and that no further legislative amendments are necessary.

- municipal governments not purchase insurance to protect themselves against un-recoverable emergency service costs.

- a reserve fund be established to reimburse municipalities for those incurred emergency costs that were the result of fire service rendered outside the municipal boundaries and which are difficult to recover otherwise.

- the cost of such a reserve fund be shared on an equal basis between the municipalities and the Province of Manitoba.

- each municipality be required to make an initial contribution of $25 towards the fund in order to generate the recommended municipal share of $5,000 and that the Province of Manitoba make an initial lump sum payment of $5,000.

- the reserve fund be administered by a small Board consisting of representatives of the Manitoba Association of Urban Municipalities (M.A.U.M.); the Union of Manitoba Municipalities (U.M.M.) and the Province of Manitoba.

- the duties of such a Board will include regular meetings to determine the validity of submitted claims, and examine the necessity to request additional funds or the possibility of returning earned interest to the contributing municipalities.

APPENDIX

SUMMARY OF
RELEVANT PROVINCIAL LEGISLATIVE SECTIONS

Municipal Act

This Act was recently amended and now provides in summary that:

- municipalities may enter into an agreement with other municipalities to provide fire protection or assistance in the prevention and suppression of fire. Section 282(2).

- such fire or protective services may be provided for any kind of emergency regardless of whether such emergencies are related to fire. Section 283(5).

- the cost of complying with the agreement may be raised in whole or in part by levying a tax on land or buildings or both in that part of the municipality. Section 283(3).

- where the fire equipment of a municipality is used outside the municipality, it shall be considered to be working inside the municipality when responding to an emergency call. Section 283(6).

- if a municipality provides fire services outside the municipality or outside any municipality with which there exists an agreement for compensation, the municipality providing the service may charge the owner of the real or personal property for which the cost was incurred. Section 283(7).

- a municipality may also provide ambulance services outside the legal boundaries of the municipality. In such instances, ambulance equipment and personnel shall be deemed for all purposes to be working within the municipality that has acquired the equipment and employs the attending personnel. Section 325(4).

Even though the various sections of The Municipal Act provide the municipalities with legal means to claim those costs related to emergency responses outside their legal boundaries, or outside the boundaries of those municipalities with which they have an agreement, the Act does not seem to cover all emergency call aspects. For example, the Act is not clear if only one or both municipalities are permitted to charge for incurred cost in those cases where two municipal fire departments respond to the same false alarm call.

Manitoba Public Insurance Act

The Act provides that municipal fire departments and ambulance services can recover their costs from the insurer of the property for which the costs were incurred. Such claims would, however, likely only be honoured if the property was specifically insured for the claimed costs. This could create some problems because most common property insurance policies provide for instance no coverage against damages resulting from radioactive material contamination. Section 238(1).

Similarly, most policies do not cover the costs associated with preventing a fire or disaster. If a municipal fire department, therefore, responds to an accident involving radioactive material, or attempts to prevent a fire from breaking out at the scene of the accident, it likely will encounter difficulties in recovering its incurred costs under the provisions of this particular Act.

Highway Traffic Act

This Act does not appear to address the liabilities associated with high traffic accidents, or how the cost of provided emergency services can be recovered if the insurer of the involved vehicle(s) refuses to pay such costs.

The Dangerous Goods Handling and Transportation Act

In summary, this newly proclaimed Act provides that:

- a licence for the transportation, storage and disposal of hazardous waste is required. Section 8(2).

- the Director (defined as an appointed employee of the Department of Environment and Workplace Safety and Health) may under specific circumstances order the disposal or removal of dangerous goods. The Director can also order that special precautions be taken with respect to the treatment or decontamination of an affected area. Section 16.

- an environmental officer (also defined as an appointed employeed of the Department of Environment and Workplace Safety and Health) may deputize qualifed persons to assist in the event of an environmental accident. Section 30(1).

- any person following the instructions of an environmental officer has the power, liability and protection of an environmental officer. Section 30(2).

- where any action is requested or taken by an environmental officer the resulting costs become a debt due to the government by the owner of the property. Section 30(4).

- any person who engages in the handling of dangerous goods may be required to provide evidence of financial responsibility in the form of insurance or in any other form satisfactory to the Director. Section 38.

- notwithstanding any provision of this Act, a municipality may make by-laws respecting the transportation of dangerous goods within the municipality, but the provisions of this Act or its regulations prevail. Section 43.

From this Act it is evident that the Government now has the legal means or delegate the necessary authority to act in those cases where the handling, transportation or disposal of dangerous goods constitutes a danger to personal property or the environment. It should, however, be emphasized that in such instances, the resulting costs become only a debt due to the Government if the requested services were ordered by an appointed or designated person. In other words, the provisions of the Act are not applicable if the services are not ordered with the approval of such a person.